

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

MILES Q. FITERMAN REVOCABLE TRUST,
et al.,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04337 (SMB)

STIPULATION AND ORDER

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually, by and through his special counsel, Windels Marx Lane & Mittendorf, LLP (“Windels Marx”), and defendants the Miles Q. Fiterman Revocable Trust; the Miles Q. Fiterman Non-Exempt Marital Trust; Towers Management Company LLC; the Fiterman GST Exempt Marital Trust; the Miles Fiterman Family Trust; Shirley Fiterman, individually, and in her capacity as Trustee for the Miles Q. Fiterman Revocable Trust and the Miles Q. Fiterman Non-Exempt Marital Trust; Steven Fiterman, individually, and in his capacity as Trustee for the Miles Q. Fiterman Revocable Trust and the Miles Q. Fiterman Non-Exempt Marital Trust; Valerie Herschman, individually, and in her capacity as Trustee for the Miles Q. Fiterman Revocable Trust and the Miles Q. Fiterman Non-Exempt Marital Trust; Karen Wasserman; Lynn Guez; Stephanie Rosenthal; Miles Q. Fiterman II; and Matthew Fiterman (collectively, the “Defendants”), by and through their counsel, Robins, Kaplan, Miller & Ciresi L.L.P. and Jones & Schwartz, P.C. (collectively, the “Parties”), represent as follows:

WHEREAS, the Trustee commenced this action (the “Adversary Proceeding”) by filing a complaint on November 30, 2010 [Dkt. No. 1], which was subsequently amended on December 10, 2010 [Dkt. No. 2] and thereafter served; and

WHEREAS, on April 17, 2014, the Defendants filed a Motion to Dismiss the First Amended Complaint (the “Fiterman Motion to Dismiss”) [Dkt. No. 49]; and

WHEREAS, the Defendant’s counsel informed Windels Marx that they had obtained a hearing date of October 22, 2014 for the Fiterman Motion to Dismiss; and

WHEREAS, Becker & Poliakoff LLP and certain other counsel, on behalf of numerous defendants, previously filed motions to dismiss in hundreds of other “good faith” adversary proceedings pending before the Court (the “Omnibus Motions to Dismiss”); and

WHEREAS, opposition and reply briefs to the Omnibus Motions to Dismiss have been filed; and

WHEREAS, on July 24, 2014, the Court entered an Order to schedule a hearing on the Omnibus Motions to Dismiss for September 17, 2014 [Dkt. No. 7513, Adv. Pro. No. 08-01789]; and

WHEREAS, the Omnibus Motions to Dismiss and the Fiterman Motion to Dismiss include certain common legal issues; and

WHEREAS, the Parties have agreed to defer the briefing and hearing on the Fiterman Motion to Dismiss until after the Court has entered a decision on the Omnibus Motions to Dismiss (the “Omnibus Decision”).

NOW, THEREFORE, the Parties stipulate and agree to, and the Court **ORDERS**, the following:

1. The hearing on the Fiterman Motion to Dismiss currently scheduled for October 22, 2014 is hereby adjourned *sine die* pending the Omnibus Decision.

2. The parties will meet and confer within 30 (thirty) days of the date of the issuance of the Omnibus Decision to agree upon appropriate next steps, including, as necessary, setting a briefing schedule for the opposition and reply briefs and obtaining a hearing date for the Fiterman Motion to Dismiss, subject to agreement by the Court.

Dated: New York, New York
August 27, 2014

By: /s/ Howard L. Simon
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*Special Counsel for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
Bernard L. Madoff*

Dated: Minnesota, MN
August 27, 2014

By: /s/ Thomas F. Berndt
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Attorneys for Defendants

SO ORDERED ON August 27th, 2014 .:

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE